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**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**(Eugene Division)**

MICHAEL EVANS,

Plaintiff,

vs.

GUARANTY RV, INC. a/b/n GUARANTY RV  
CENTERS,

Defendant.

Case No. 6:19-cv-01062-MK

**DEFENDANT GUARANTY RV,  
INC. a/b/n GUARANTY RV  
CENTERS' ANSWER AND  
AFFIRMATIVE DEFENSES**

In response to Plaintiff's Complaint, Defendant Guaranty RV, Inc. a/b/n Guaranty RV Centers (hereinafter "Guaranty RV") admits, denies and alleges as follows.

**ANSWER**

**NATURE OF THE ACTION**

1. No response is required to Paragraph 1 of the Complaint.

**JURISDICTIONAL ALLEGATIONS**

2. No response is required to Paragraph 2 of the Complaint.
3. Guaranty RV lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 3 of the Complaint.
4. Guaranty RV lacks sufficient knowledge or information to form a belief as to the

truth of the allegations in Paragraph 4 of the Complaint.

### **GENERAL FACTUAL ALLEGATIONS**

5. Guaranty RV admits the allegations in Paragraph 5 of the Complaint.

6. Guaranty RV admits that it was doing business in Lane County and when so doing, it did so through its employees acting within the scope of their agency. Guaranty RV denies the remaining allegations in Paragraph 6 of the Complaint.

7. Guaranty RV admits that Plaintiff was hired in February 2014. Guaranty denies the remaining allegations in Paragraph 7 of the Complaint.

8. Guaranty RV denies the allegations in Paragraph 8 of the Complaint, including all subparts.

9. Guaranty RV denies the allegations in Paragraph 9 of the Complaint, including all subparts.

10. Guaranty RV admits the allegations in Paragraph 10 of the Complaint.

11. Guaranty RV admits the allegations in Paragraph 11 of the Complaint.

12. Guaranty RV denies the allegations in Paragraph 12 of the Complaint.

13. Guaranty RV admits that Plaintiff complained about his sales figures. Guaranty RV denies the remaining allegations of Paragraph 13 of the Complaint.

14. Guaranty RV denies the allegations in Paragraph 14 of the Complaint.

15. Guaranty RV denies the allegations in Paragraph 15 of the Complaint.

16. Guaranty RV lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 16 of the Complaint.

17. Guaranty admits the allegations in Paragraph 17 of the Complaint.

18. Guaranty RV denies any retaliation as alleged in Paragraph 18 of the Complaint. Guaranty RV lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 18 of the Complaint.

19. Guaranty RV denies the allegations in Paragraph 19 of the Complaint.

20. Guaranty RV denies the allegations in Paragraph 20 of the Complaint.

21. Guaranty RV admits that it is opposed to harassment in the workplace and encourages employees to report any such behavior to management personnel. Guaranty RV denies the remaining allegations in Paragraph 21 of the Complaint.

### **FIRST CLAIM FOR RELIEF**

**(42 U.S.C. § 1981)**

22. In response to the allegations in paragraph 22, Guaranty RV incorporates its responses above as though fully set forth herein.

23. Guaranty RV denies the allegations in Paragraph 23 of the Complaint.

24. Guaranty RV denies the allegations in Paragraph 24 of the Complaint.

25. Guaranty RV denies the allegations in Paragraph 25 of the Complaint.

26. Guaranty RV denies the allegations in Paragraph 26 of the Complaint.

27. Guaranty RV denies the allegations in Paragraph 27 of the Complaint.

### **SECOND CLAIM FOR RELIEF**

**(42 U.S.C. § 2000e)**

**(Title VII – Hostile Work Environment)**

28. In response to the allegations in paragraph 28, Guaranty RV incorporates its responses above as though fully set forth herein.

29. Guaranty RV denies the allegations in Paragraph 29 of the Complaint.

30. Guaranty RV denies the allegations in Paragraph 30 of the Complaint.

31. Guaranty RV denies the allegations in Paragraph 31 of the Complaint.

### **THIRD CLAIM FOR RELIEF**

**(Title VII – Retaliation)**

32. In response to the allegations in paragraph 32, Guaranty RV incorporates its

responses above as though fully set forth herein.

- 33. Guaranty RV denies the allegations in Paragraph 33 of the Complaint.
- 34. Guaranty RV denies the allegations in Paragraph 34 of the Complaint.
- 35. Guaranty RV denies the allegations in Paragraph 35 of the Complaint.
- 36. Guaranty RV denies the allegations in Paragraph 36 of the Complaint.

#### **FOURTH CLAIM FOR RELIEF**

##### **(ORS 659A.030 – Retaliation)**

37. In response to the allegations in paragraph 37, Guaranty RV incorporates its responses above as though fully set forth herein.

- 38. Guaranty RV denies the allegations in Paragraph 38 of the Complaint.
- 39. Guaranty RV denies the allegations in Paragraph 39 of the Complaint.
- 40. Guaranty RV denies the allegations in Paragraph 40 of the Complaint.
- 41. Guaranty RV denies the allegations in Paragraph 41 of the Complaint.

#### **FIFTH CLAIM FOR RELIEF**

##### **(ORS 659.030 – Hostile Work Environment)**

42. In response to the allegations in paragraph 42, Guaranty RV incorporates its responses above as though fully set forth herein.

- 43. Guaranty RV denies the allegations in Paragraph 43 of the Complaint.
- 44. Guaranty RV denies the allegations in Paragraph 44 of the Complaint.
- 45. Guaranty RV denies the allegations in Paragraph 45 of the Complaint.
- 46. Guaranty RV denies the allegations in Paragraph 46 of the Complaint.

#### **SIXTH CLAIM FOR RELIEF**

##### **(ORS 659A.199 – Whistleblowing)**

47. In response to the allegations in paragraph 47, Guaranty RV incorporates its responses above as though fully set forth herein.

- 48. Guaranty RV denies the allegations in Paragraph 48 of the Complaint.
- 49. Guaranty RV denies the allegations in Paragraph 49 of the Complaint.
- 50. Guaranty RV denies the allegations in Paragraph 50 of the Complaint.
- 51. Guaranty RV denies the allegations in Paragraph 51 of the Complaint.

#### **SEVENTH CLAIM FOR RELIEF**

##### **(ORS 659A.040 – Injured Worker Discrimination)**

52. In response to the allegations in paragraph 52, Guaranty RV incorporates its responses above as though fully set forth herein.

- 53. Guaranty RV denies the allegations in Paragraph 53 of the Complaint.
- 54. Guaranty RV denies the allegations in Paragraph 54 of the Complaint.
- 55. Guaranty RV denies the allegations in Paragraph 55 of the Complaint.
- 56. Guaranty RV denies the allegations in Paragraph 56 of the Complaint.

#### **EIGHTH CLAIM FOR RELIEF**

##### **(ORS 659A.109 – Disabled Worker Discrimination)**

57. In response to the allegations in paragraph 57, Guaranty RV incorporates its responses above as though fully set forth herein.

- 58. Guaranty RV denies the allegations in Paragraph 58 of the Complaint.
- 59. Guaranty RV denies the allegations in Paragraph 59 of the Complaint.
- 60. Guaranty RV denies the allegations in Paragraph 60 of the Complaint.
- 61. Guaranty RV denies the allegations in Paragraph 61 of the Complaint.

#### **NINTH CLAIM FOR RELIEF**

##### **(ORS 659A.112/118 – Disabled Worker Discrimination/Failure to Engage/Accommodate)**

62. In response to the allegations in paragraph 62, Guaranty RV incorporates its responses above as though fully set forth herein.

- 63. Guaranty RV denies the allegations in Paragraph 63 of the Complaint.

64. Guaranty RV denies the allegations in Paragraph 64 of the Complaint.

65. Guaranty RV denies the allegations in Paragraph 65 of the Complaint.

66. Guaranty RV denies the allegations in Paragraph 66 of the Complaint.

#### **TENTH CLAIM FOR RELIEF**

##### **(ORS 652.355/ORS 653.060 – Wage Complaint Retaliation)**

67. In response to the allegations in paragraph 67, Guaranty RV incorporates its responses above as though fully set forth herein.

68. Guaranty RV denies the allegations in Paragraph 68 of the Complaint.

69. Guaranty RV denies the allegations in Paragraph 69 of the Complaint.

70. Guaranty RV denies the allegations in Paragraph 70 of the Complaint.

71. Guaranty RV denies the allegations in Paragraph 71 of the Complaint.

#### **ELEVENTH CLAIM FOR RELIEF**

##### **(659A.355 – Wage Complaint Retaliation)**

72. In response to the allegations in paragraph 72, Guaranty RV incorporates its responses above as though fully set forth herein.

73. Guaranty RV denies the allegations in Paragraph 73 of the Complaint.

74. Guaranty RV denies the allegations in Paragraph 74 of the Complaint.

75. Guaranty RV denies the allegations in Paragraph 75 of the Complaint.

76. Guaranty RV denies the allegations in Paragraph 76 of the Complaint.

#### **TWELVTH CLAIM FOR RELIEF**

##### **(ORS 653.601 *et seq.* – Oregon Sick Time Law)**

77. In response to the allegations in paragraph 77, Guaranty RV incorporates its responses above as though fully set forth herein.

78. Guaranty RV denies the allegations in Paragraph 78 of the Complaint.

79. Guaranty RV denies the allegations in Paragraph 79 of the Complaint.

80. Guaranty RV denies the allegations in Paragraph 80 of the Complaint.

81. Guaranty RV denies the allegations in Paragraph 81 of the Complaint.

### **THIRTEENTH CLAIM FOR RELIEF**

#### **(ORS 659.030(1)(f) – Retaliation for Opposing Unlawful Practices)**

82. In response to the allegations in paragraph 82, Guaranty RV incorporates its responses above as though fully set forth herein.

83. Guaranty RV denies the allegations in Paragraph 83 of the Complaint.

84. Guaranty RV denies the allegations in Paragraph 84 of the Complaint.

85. Guaranty RV denies the allegations in Paragraph 85 of the Complaint.

86. Guaranty RV denies the allegations in Paragraph 86 of the Complaint.

### **PLAINTIFF’S PRAYER FOR RELIEF**

In responding to Plaintiff’s prayer for relief, Guaranty RV denies that Plaintiff is entitled to any relief, including, without limitation, the relief sought in the Complaint.

### **AFFIRMATIVE DEFENSES**

Guaranty RV has not yet had the full opportunity to conduct a reasonable inquiry of the facts underlying this lawsuit, but based upon its current knowledge, information and belief, Guaranty RV asserts the following affirmative defenses, some or all of which may ultimately be supported by the facts to be revealed in discovery and investigation of this case. Upon request and/or having conducted discovery in this case, Guaranty RV will withdraw those defenses that are unsupported by the facts revealed in pretrial discovery and investigation, should there be any such defenses. On the basis of the above, by way of further answer to Plaintiff’s Complaint, Guaranty alleges as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

##### **(Failure to State of Claim)**

87. Plaintiff’s Complaint fails to state a claim for which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

88. Plaintiff has failed to mitigate his damages, if any.

**THIRD AFFIRMATIVE DEFENSE**

**(Good Faith)**

89. Guaranty RV acted in good faith in all particulars with regard to Plaintiff and his employment.

**FOURTH AFFIRMATIVE DEFENSE**

**(Legitimate, Nondiscriminatory Conduct)**

90. Guaranty RV's actions were based on legitimate business needs and nondiscriminatory motives.

**FIFTH AFFIRMATIVE DEFENSE**

**(Comparative Fault)**

91. Plaintiff's claims for relief arise solely and/or substantially from Plaintiff's own actions, performance, and/or fault.

**SIXTH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

92. The Complaint is barred, in whole or in part, by the statute of limitations or other applicable rules, statutes or regulations controlling or requiring the initiation of a suit within a certain period of time following the accrual of a cause of action.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Laches)**

93. Plaintiff's claims against Guaranty RV are barred by the equitable doctrine of laches.



**EIGHTH AFFIRMATIVE DEFENSE**

**(Waiver)**

94. Plaintiff's claims against Guaranty RV are barred, in whole or in part, by the equitable doctrines and waiver and estoppel.

**NINTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

95. Plaintiff's claims against Guaranty RV are barred, in whole or in part, by the equitable doctrine of unclean hands.

**TENTH AFFIRMATIVE DEFENSE**

**(Reduction in Damages/Offset)**

96. To the extent any damages or injuries were in fact suffered by Plaintiff, such damages or injuries must be reduced or diminished by amounts received or receivable by Plaintiff in the exercise of reasonable diligence as income or in lieu of earned income or as benefits.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Failure to Exhaust Administrative Remedies)**

97. Plaintiff's claims against Guaranty RV are barred because Plaintiff failed to exhaust administrative remedies.

**TWELVTH AFFIRMATIVE DEFENSE**

**(Jurisdiction)**

98. This Court lacks personal and subject matter jurisdiction over this matter.

**ADDITIONAL AFFIRMATIVE AND OTHER DEFENSES**

99. Guaranty RV presently has insufficient knowledge or information upon which to form a belief as to whether there may be additional, as yet unstated, defenses and reserves the

right to assert additional defenses or affirmative defenses in the event discovery indicates such defenses are appropriate.

**PRAYER FOR RELIEF**

WHEREFORE, having fully answered Plaintiff's Complaint, Guaranty RV respectfully requests that Plaintiff's Complaint be dismissed in its entirety, with prejudice, and further request an award of attorneys' fees, expenses, costs of suit, interest and such other relief that the Court deems just and equitable.

Dated: August 29, 2019

GORDON REES SCULLY MANSUKHANI, LLP

By: s/ Christopher E. Hawk

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**CERTIFICATE OF SERVICE**

*Michael Evans v. Guaranty RV, Inc.*

U.S. District Court, District of Oregon, Case No. 6:19-cv-01062-MK

I certify under penalty of perjury under the laws of the State of Oregon that I am over the age of 18, and on this date I caused a copy of the foregoing **DEFENDANT GUARANTY RV, INC. d/b/a GUARANTY RV CENTERS' ANSWER AND AFFIRMATIVE DEFENSES** to be served as stated below:

- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of Oregon at Portland, addressed as set forth below.
- ☐ by transmitting via electronic delivery (e-mail) the attached document(s) to the e-mail address(es) set forth below.
- ☒ by transmitting via electronic delivery the attached document(s) to all attorneys of record using the CM/ECF system.

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*Of Attorneys for Plaintiff*

**I declare under penalty of perjury under the laws of the State of Oregon that the above is true and correct.**

DATED this 29<sup>th</sup> day of August, 2019

GORDON REES SCULLY MANSUKHANI LLP

By:   
Erika Overson, Legal Assistant